

ORIGINAL



0000135735

Date: April 6, 2012

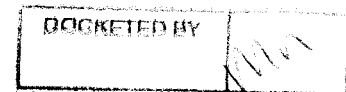
To: **Docket Control**
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

Arizona Corporation Commission

DOCKETED

APR - 9 2012

From: Robert T. Hardcastle
Payson Water Co., Inc.
(661) 633-7526

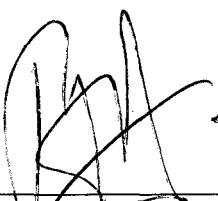


FOR FILING ORIGINAL AND 13 COPIES INTO:

DOCKET NO. W-03514A-12-0007

Smith vs. Payson Water Co.

By:



Robert T. Hardcastle

RECEIVED
2012 APR - 9 P 12:34
AZ CORP COMMISSION
DOCKET CONTROL

1 * BEFORE THE ARIZONA CORPORATION COMMISSION

2
3 Robert T. Hardcastle
4 Payson Water Co., Inc.
5 P.O. Box 82218
6 Bakersfield, CA 93380-2218

7 *Representing Itself In Propria Persona*

RECEIVED
2012 APR -9 P 12:34
CORP COMMISSION
DOCKET CONTROL

8
9 COMMISSIONERS

10 Gary Pierce, Chairman
11 Paul Newman, Commissioner
12 Brenda Burns, Commissioner
13 Bob Stump, Commissioner
14 Sandra D. Kennedy, Commissioner

15
16 IN THE MATTER OF J. ALAN SMITH)
17 COMPLAINTANT)
18)
19)
20 VS.)
21)
22 PAYSON WATER CO., INC.,)
23 RESPONDENT)
24
25

Docket No. W-03514A-12-0007

**REPLY TO COMPLAINTANT'S
RESPONSE TO PAYSON WATER
CO.'S MOTION TO DISMISS
AND MOTION TO DENY**

26 Complainant J. Alan Smith (hereafter "Complainant") filed a Formal
27 Complaint into Docket No. W-03514A-12-0007 based on previously submitted informal
28 complaint number 2011-998892.

29 On March 23, 2012 Payson Water Co. ("PYWCo") filed its Motion to Dismiss the
30 Complaint on the basis of Complainant admitting that he is a non-customer.

31 On or about April 5, 2012 PYWCo received Complainant's "Response to
32 Respondents Motion to Dismiss and Motion to Deny" (the "Response").

33 Complainant's newly constructed argument in the Response proffers that A.R.S. §
34 40-246 (A) and (B) provide that a "person" (without limitation) acquires standing to file a
35 regulatory complaint. Complainant's construct this argument in its broadest possible
36 sense and fail to offer that reasonable interpretation must be applied. Complainant's

1 *argument, for example, that a “person” residing on another continent without interest in
2 proceedings and knowledge of the existence of a regulatory entity or service area would
3 gain standing because a “person” filed a complaint. Under Complainant’s Response such
4 ridiculous circumstances would meet the definition of standing and provide the ability of
5 such a “person” to file a complaint.

6 The Arizona Corporation Commission (the “Commission”) has long regarded its
7 scope of jurisdictional responsibility pertinent to public service corporations defined by
8 Article XV of the Arizona Constitution and A.R.S. §§ 40-250 and 40-251. To consider an
9 unrelated “person” to have standing to file a complaint on that basis exclusively flies in
10 the face of all reasonable thought and intent of regulation. If the Commission were to
11 adopt a policy regarding standing as Complainant’s argue it is conceivable that regulatory
12 dockets would fill with complaints of little or no merit and easily exhaust any level of
13 resources the Commission could apply to the tsunami of filings. The Commission is
14 keenly aware, as apparently the Complainant’s are not, that such circumstances translate
15 to expensive impact on rate payers in the form of higher and higher rates.

16 **PAYSON WATER CO.’S REPLY**

17 Arizona’s standard to establish standing in a judicial or regulatory setting does not
18 require a case or a controversy requirement. *Armory Park Neighborhood Association vs.*
19 *Episcopal Community Services* (148 Ariz. 1, 6, 712 P.2d 914, 919 (1985)). Further,
20 A.R.S. § 40-246 limits the application of a “person” in that “no complaint shall be
21 entertained by the Commission except by its own motion, as to the reasonableness of
22 any rates or charges” unless specific conditions are met. A substantial portion of Smith’s
23 Complaint argues that PYWCo’s costs are unreasonable (see Complaint, pages 4-5)
24 which renders Complainant’s argument unsustainable without the fulfillment of other
25 conditions required under A.R.S. § 40-246.

26 A.A.C. R14-20-401 defines a “customer” as;

27 ***“The person or entity in whose name service is rendered as evidenced***

28 ***By the signature on the application or contract for that service”.*** (emphasis
29 provided).

1 *This definition implies that property owner Joanna Hutchinson is the customer of record
2 and connected to the service address. It is important and determinative that R14-20-401
3 exclusively refers to "customer", not person, and other sections of Title 14 refer to
4 "customer" in the same manner. Under the definition of "customer" provided above
5 Hutchinson would be properly regarded as the "customer" while Smith would not since
6 service is not being rendered in his name. Hutchinson provided the required security and
7 meter deposits many years ago and has since been issued refunds under the rules. Smith
8 has not received deposit refunds.

9 It is also pertinent to the instant matter that if a "customer" leaves a service address
10 without payment of any final balance owing that PYWCo is permitted to seek payment of
11 the remaining amounts through the services of a commercial debt collection company. In
12 the case of the Complainant if such a final bill remains PYWCo would seek payment
13 from Hutchinson, as the customer of record, not Smith.

14 CONCLUSION

15 PYWCo argues Complainant does not have standing to bring the Complaint
16 because he is a non-customer. Smith did not establish the water service account and is not
17 responsible for maintaining it. Complainant's argument fall short of establishing the fact
18 that Smith has standing to file a Complaint.

19 Accordingly, PYWCo respectfully requests the Commission and the
20 Administrative Law Judge grant PYWCo's Motion to Dismiss and deny Smith's
21 Complaint Response.

22 RESPECTFULLY SUBMITTED this 6th day of April 2012.

23 Payson Water Co., Inc.

24
25 By: 

26 Robert T. Hardcastle

27 *In Propia Persona*
28

29 ORIGINAL and 13 copies filed
30 this 6th day of April 2012, with:
31

Docket Control

Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

And copies mailed to the following:

Lynn Farmer, Administrative Law Judge
HEARING DIVISION

Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

Arizona Reporting Service, Inc.
2200 No. Central Ave. Suite 502
Phoenix, AZ 85004-1481

J. Alan Smith
8166 Barranca
Payson, AZ 85541

Janice Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

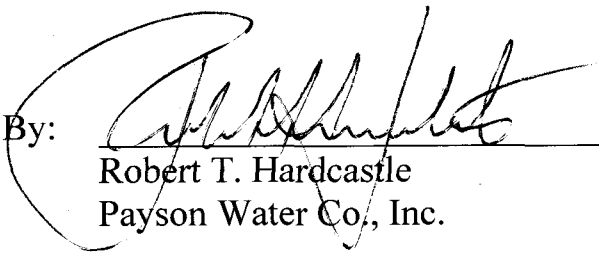
Steve Olea
Utilities Division
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

Robin Mitchell, Esq.
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

Patrick Black, Esq.
Fennemore Craig
3003 No. Central Ave., Suite 2600
Phoenix, AZ 85012-2913

1
2
3
4
5
6

By:



Robert T. Hardcastle
Payson Water Co., Inc.